

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: LOCAL TV ADVERTISING
ANTITRUST LITIGATION**

Master Docket No. 18 C 06785

MDL No. 2867

Honorable Virginia M. Kendall

**STIPULATION AND ORDER PURSUANT TO FED. R. CIV. P. 53 APPOINTING
SPECIAL MASTER**

By and through their undersigned counsel, the parties hereby state as follows:

WHEREAS, on November 3, 2022, in consideration of the scope of the privilege disputes, the Court decided to appoint a special master to review the disputed materials and ordered the parties to submit proposed candidates (ECF No. 850);

WHEREAS, on November 28, 2022, the parties submitted a Joint Proposal Regarding Special Master Candidates (ECF No. 861);

WHEREAS, on February 6, 2023, the Court appointed the Hon. Richard A. Levie (Ret.) as Special Master (ECF No. 920);

WHEREAS, on February 10, 2023, the Court ordered the parties to submit a proposed Order pursuant to Fed. R. Civ. P. 53 for the appointment of the Hon. Richard A. Levie (Ret.) as Special Master;

WHEREAS, the Hon. Richard A. Levie (Ret.) and his proposed counsel, Wendy Anderson, have issued disclosures and there are no grounds for disqualification under 28 U.S.C. § 455;

Upon consideration of the representations of counsel for the Plaintiffs and Defendants, the applicable case law, the record herein, and with the consent of all parties, it is hereby ORDERED that:

I. APPOINTMENT

The Hon. Richard A. Levie (Ret.) (“Special Master”) shall be appointed pursuant to Rule 53 of the Federal Rules of Civil Procedure as Special Master in this action for the purpose of deciding matters referred to him as described in Section II below. Pursuant to Fed. R. Civ. P. 53(b)(1), the parties acknowledge that the Court gave notice and the opportunity to be heard regarding its intent to appoint the Special Master. The Special Master shall have the rights, power, and duties provided in Rule 53 and may adopt such additional procedures as are not inconsistent with that Rule or with this or other Orders of the Court.

II. SCOPE OF DUTIES

The following matters are referred to the Special Master for him to consider and rule upon: All pending motions relating to privilege log entries in the above-captioned case, specifically Discovery Motions No. 5 (ECF No. 677, Antitrust/Business Compliance Documents), No. 9 (ECF No. 727, Nexstar), No. 10 (ECF No. 728, Griffin), No. 11 (ECF No. 729, Raycom), No. 12 (ECF No. 730, Scripps), No. 13 (ECF No. 731, Meredith), No. 14 (ECF No. 732, TEGNA), and No. 15 (ECF No. 733 Sinclair), subject to amendments of privilege logs and/or narrowing of disputes that have occurred since the time such motions were filed and prior to the appointment of the Special Master on February 6, 2023 (ECF No. 920).

The Special Master shall have the authority to establish procedures for resolving the enumerated matters above. The parties agree that they will comply with all procedures the Special Master establishes.

III. *EX PARTE* COMMUNICATIONS

The Special Master may communicate *ex parte* with the Court about the progress and procedures of his work. Such communications shall be limited to procedural matters. The parties shall not engage in any *ex parte* discussions with the Special Master, and the Special Master shall not engage in any *ex parte* discussion with any party.

IV. PRESERVATION OF MATERIALS

All writings of any nature whatsoever created by the Special Master or those employed by him in performing his duties under the terms of this Order shall be preserved by the Special Master at his discretion and need not be filed with the Court. “Writings” include, but are not limited to, correspondence, memoranda, records, reports, summaries or records of telephone conversations, work papers, drafts, copies, notes, marginal notations, bills, invoices, checks, or emails. The Court may request that any of these writings be produced for inspection. Absent good cause shown, the parties may not request that any of these writings be produced for inspection.

V. TIMING AND PROCESS FOR REVIEW

On February 21, 2023, Plaintiffs delivered copies of privilege logs containing the entries at issue for Defendants Sinclair, Nexstar, Raycom, Meredith, Scripps, and Griffin to the Special Master for review, subject to objections by certain Defendants regarding the scope of the entries at issue. On March 1, 2023, Plaintiffs and TEGNA will report to the Special Master on the status of challenges to TEGNA’s previously revised privilege log. The parties delivered the above-enumerated Motion to Compel briefing to the Special Master, including all declarations and attached exhibits. Each party also delivered to the Special Master highlighted copies of the key cases cited or relied upon in that party’s briefing. All documents were sent electronically, copying opposing counsel, and in hard copy.

The Special Master shall “proceed with all reasonable diligence” as required by Federal Rule of Civil Procedure 53, and issue Reports and Recommendations on a rolling basis, as he decides specific disputes or issues, with the priority to be determined by the Special Master after consultation with the parties.

VI. JUDICIAL REVIEW OF RULINGS BY THE MASTER

After issuing a Report and Recommendation, the Special Master shall file it electronically on the case docket via Electronic Case Filing (“ECF”). Pursuant to Fed. R. Civ. P. 53(f)(2), any party may file an objection to any Report and Recommendation of the Special Master with the Court within 14 days of the ECF filing date. Failure to meet this deadline results in waiver of any objection to the Special Master’s order. Responses to objections must be filed within 7 days. These deadlines may be shortened or extended by agreement or for good cause shown. Page limits for briefing on any objections to any order shall be subject to agreement between the parties and shall be determined by the Special Master if the parties cannot agree.

If any portion of an appeal submission is filed under seal, the party requesting sealing may submit support for its sealing request within seven days after filing. Pursuant to Fed. R. Civ. P. 53(f)(3) and (5), the parties stipulate that the Court shall review the Special Master’s findings of fact for clear error; rulings on procedural matters for abuse of discretion; and findings of law *de novo*.

The parties further agree that this process satisfies Fed. R. Civ. P. 53(f)(1)-(2).

VII. PROTECTIVE ORDER

The Special Master and his staff shall be bound by the Confidentiality Order and all other orders entered in this action protecting confidential, sensitive, private, and privileged information. *See* ECF No. 194.

VIII. PAYMENT OF SPECIAL MASTER'S COMPENSATION

The Special Master shall be paid \$700 per hour for all work done in this matter stemming from the duties outlined in Section II of this Order and shall be reimbursed for all reasonable expenses incurred. The Special Master may engage the reasonable assistance of Wendy Anderson as he deems necessary to complete the review in the time period set forth in this Order, at the rate of \$400 per hour. Plaintiffs will be jointly responsible for paying one-half of the fees and expenses described herein; Defendants will be jointly responsible for paying the other half of the fees and expenses described herein. Absent a good faith objection concerning the reasonableness of the fees charged, each party shall pay the Special Master within 60 days of receipt of the bill.

The Special Master shall preserve billing records of time spent on this litigation, and expenses incurred, with reasonably detailed descriptions of the activities worked on and the expenses, including whether time spent was applicable to all Defendants or a specific Defendant.

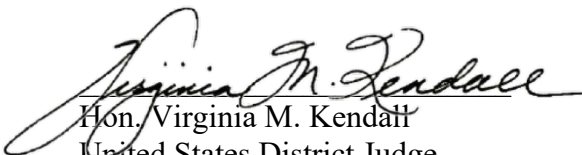
IX. GROUNDS FOR DISQUALIFICATION

Hon. Richard A. Levie (Ret.) has completed a declaration identifying no grounds for disqualification from this matter under Fed. R. Civ. P. 53(b)(3)(A).

SO ORDERED.

DATED: 3/7/2023

BY THE COURT:


Hon. Virginia M. Kendall
United States District Judge

/s/ Megan E. Jones

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